

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

STEVEN W. KRAFCHICK,
Petitioner,

v.

Civil Action No. 07-284-GMS

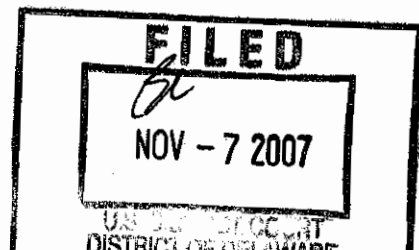
ELIZABETH BURRIS, Acting Warden
and JOSEPH R. BIDEN, III, Attorney
General of the State of Delaware,
Respondents.

**PETITIONER'S REQUEST FOR LEAVE OF COURT
TO PURSUE DISCOVERY PURSUANT TO
HABEAS CORPUS RULE 6 (a)**

The petitioner, Steven W. Krafchick, hereby request leave of the court to pursue Discovery pursuant to Habeas Corpus Rule 6 (a). A judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery. If necessary for effective discovery, the judge must appoint an attorney for a petitioner who qualifies to have counsel appointed under 18 U.S.C. § 3006A.

The following is offered in support of the granting of this motion:

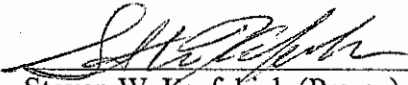
1. The petitioner has raised substantial contentions that if proven would cast a reasonable doubt sufficient enough to have the acceptance of the guilty plea undermined and that the petitioner could not have known what he was doing at the time of the plea offer due to the medications that the petitioner was on at the time.



2. Discovery may, in appropriate cases, aid in developing facts necessary to decide whether to order an evidentiary hearing or to grant a writ following an evidentiary hearing. 394 U.S. at 301 n. 7.
3. The petitioner raises an issue that is in dispute of law and facts where the granting of discovery before the granting of an evidentiary hearing may be appropriate. Such an approach was advocated in Wagner v. United States, 418 F.2d 618, 621 (9th Cir. 1969), where the opinion stated the trial court could permit interrogatories, provide for deposing witness, "*and take such other pre-hearing steps as may be appropriate.*"
4. The information that is sought by the petitioner may not be appropriate for Habeas Corpus Rule 7 (b), in that, the information may not have been prepared prior to the petitioner's request; therefore, that is the reason for the petitioner requesting a Rule 6 (a) discovery.
5. The petitioner believes that the appropriate vehicle is under Habeas Corpus Rule 6 (a); the interrogatories that accompany this request ask the all-important question of, what if any, preventive steps were taken prior to approaching the petitioner who was legally medicated on psychotropic drugs. In addition, what preventive steps were taken to ensure the petitioner could reasonably consult with counsel meaningfully, and that the decision to proceed with the plea agreement was truly voluntary, intelligent, and knowingly done on the part of the petitioner and is not undermined by the medications he was on.
6. The petitioner also believes that the granting of such motion would serve in the best interest of justice under the circumstances.

Wherefore, the petitioner prays that this Court will grant this motion for the leave of Court, allow the petitioner interrogatories sufficient to develop the petitioner's contentions; for the purpose of this Court's consideration of an evidentiary hearing if, the Court believes the issue of law and facts cannot be resolved. In addition, allow the limit appointment of counsel to ensure meaningful discovery pursuant to Habeas Corpus Rule 6 (a) and in accordance with Habeas Corpus Rule 8 (c).

Dated: November 5, 2007



Steven W. Krafchick (Pro-se)
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

CERTIFICATE OF SERVICE

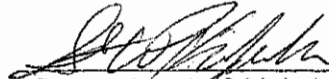
I, Steven W. Krafchick, hereby certify that I have served a true and correct copy (ies) of the attached **Motion for Leave of Court** pursuant to Habeas Corpus Rule 6 (a) of the Federal Civil Procedures and Rules upon the following parties/person:

To: Office of the Clerk
United States District Court
844 N. King Street, Lockbox 18
Wilmington, Delaware 19801-3570

To: Elizabeth R. McFarlan
Deputy Attorney General
820 N. French Street
Wilmington, Delaware 19801
Del. Bar. ID No. 3759

BY PLACING SAME IN A SEALED ENVELOPE, and depositing same in the United States Mail located at the Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

On this 5th day of month November, 2007


Steven W. Krafchick (Pro-se)
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977